

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 21, 2016

AMENDED IN SENATE APRIL 11, 2016

SENATE BILL

No. 1194

Introduced by Senator Hill

February 18, 2016

An act to amend Sections ~~2909.5, 2913, 2914, 2914.1, 2914.2, 2915, 2920, and 2933~~ of, to add Sections 2934.1 and 2988.5 to, and to repeal Section 2947 of, the Business and Professions Code, relating to healing arts: 109, 116, 153, 307, 313.1 of the Business and Professions Code, and to amend Section 825 of the Government Code, relating to professional regulations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1194, as amended, Hill. ~~Psychology: Board of Psychology: personnel. Professions and vocations: board actions and regulations.~~

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs and authorizes those boards to adopt regulations to enforce the laws pertaining to the profession and vocation for which they have jurisdiction. Existing law makes decisions of any board within the department pertaining to setting standards, conducting examinations, passing candidates, and revoking licenses final, except as specified, and provides that those decisions are not subject to review by the Director of Consumer Affairs. Existing law authorizes the director to audit and review certain inquiries and complaints regarding licensees, including the dismissal of a disciplinary case. Existing law requires the

director to annually report to the chairpersons of certain committees of the Legislature information regarding findings from any audit, review, or monitoring and evaluation. Existing law authorizes the director to contract for services of experts and consultants where necessary. Existing law requires regulations, except those pertaining to examinations and qualifications for licensure and fee changes proposed or promulgated by a board within the department, to comply with certain requirements before the regulation or fee change can take effect, including that the director is required to be notified of the rule or regulation and given 30 days to disapprove the regulation. Existing law prohibits a rule or regulation that is disapproved by the director from having any force or effect unless the director's disapproval is overridden by a unanimous vote of the members of the board, as specified.

This bill would instead authorize the director, upon his or her own initiative, and require the director upon the request of the board making the decision or the Legislature, to review any nonministerial market-sensitive action, except as specified, of a board within the department to determine whether it furthers a clearly articulated and affirmatively expressed state policy and to approve, disapprove, or recommend modifications of the board action, as specified. The bill would require the director to issue and post on the department's Internet Web site his or her final written decision and the reasons for the decision. The bill would, commencing on March 1, 2017, require the director to annually report to the chairs of specified committees of the Legislature information regarding the director's disapprovals and recommended modifications of board actions. The bill would require the director to review rules or regulations, as described above, within 60 days. The bill would require the director to disapprove a proposed rule or regulation that is a market-sensitive action that does not further clearly articulated and affirmatively expressed state policy and authorize him or her to recommend modifications.

(2) The Government Claims Act, except as provided, requires a public entity to pay any judgment or any compromise or settlement of a claim or action against an employee or former employee of the public entity if the employee or former employee requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity, the request is made in writing not less than 10 days before the day of trial, and the employee

or former employee reasonably cooperates in good faith in the defense of the claim or action. That act prohibits the payment of punitive or exemplary damages by a public entity, except as specified.

This bill would require a public entity to pay a judgment or settlement for treble damage antitrust awards against a member of a regulatory board for an act or omission occurring within the scope of his or her employment as a member of a regulatory board. The bill would specify that treble damages awarded pursuant to a specified federal law for violation of another federal law are not punitive or exemplary damages within the Government Claims Act.

~~(1) Existing law, the Psychology Licensing Law (hereafter law), establishes the Board of Psychology to license and regulate the practice of psychology, and authorizes the board to employ all personnel necessary to carry out that law and to employ an executive officer, as specified. These provisions are in effect only until January 1, 2017.~~

~~This bill would extend those provisions to January 1, 2021.~~

~~(2) The law defines the practice of psychology as rendering or offering to render, for a fee, psychological services involving the application of psychological principles and methods, including the diagnosis, prevention, and treatment of psychological problems and emotional and mental disorders. The law prohibits unlicensed persons from practicing psychology, but authorizes unlicensed persons, including psychological assistants who meet certain requirements and do not provide psychological services to the public, except as an employee of a licensed psychologist, licensed physician, contract clinic, psychological corporation, or medical corporation, to perform limited psychological functions. The law also prohibits its provisions from being construed as restricting or preventing specified nonprofit community agency employees from carrying out activities of a psychological nature or using their official employment title, as specified, provided the employees do not render or offer to render psychological services. The law provides that a violation of any of its provisions is a misdemeanor.~~

~~This bill would recast these provisions to authorize an unlicensed person preparing for licensure as a psychologist to perform psychological functions under certain conditions, including registration with the board as a psychological assistant and immediate supervision by a licensed psychologist or physician and surgeon who is board certified in psychiatry, as specified. The bill would prohibit a psychological assistant from providing psychological services to the public except as a supervisee. The bill would expand the prohibition~~

on construing the law's provisions as restricting or preventing specified activities of nonprofit community agency employees by making this prohibition contingent on the employees' not rendering or offering to render psychological services to the public. By changing the definition of a crime, this bill would create a state-mandated local program.

(3) The law conditions the issuance of a psychology license upon an applicant having received any of certain kinds of doctorate degrees, from an accredited educational institution. The law requires, with certain exceptions, the board to issue renewal licenses for psychology only to those applicants who have completed 36 hours of approved continuing education in the preceding two years. Existing law prescribes a biennial license renewal fee of not more than \$500. Existing law also requires a person applying for relicensure or for reinstatement to an active license to certify under penalty of perjury that he or she is in compliance with the continuing education requirements. Existing law requires continuing education instruction to be completed within the state or be approved for credit by the American Psychological Association or its equivalent.

This bill would revise and recast the doctorate degree requirements for licensure to include, until January 1, 2020, a doctorate degree from an unaccredited institution that is approved for operation by a specified entity. The bill would replace the term "continuing education" with "continuing professional development," define "continuing professional development," require a person applying for renewal or reinstatement to certify compliance with these requirements under penalty of perjury, require continuing professional courses to be approved by organizations approved by the board, as specified, and authorize the board to grant exemptions from, or extensions for compliance with, these requirements.

This bill would authorize the board to issue a retired license to a licensed psychologist if the psychologist has applied to the board for a retired license and pays a fee of not more than \$75. The bill would also prohibit the holder of a retired license from engaging in the practice of psychology in the same manner as an active licensee. Because a violation of this prohibition would be a crime, the bill would impose a state-mandated local program.

(4) The law authorizes the board to appoint qualified persons to give the whole or any portion of any examination provided for in the law, to be designated as commissioners on examination.

This bill would repeal this authorization.

This bill would authorize the board to post on its Internet Web site the prescribed information regarding all current and former licensees.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 109 of the Business and Professions Code
2 is amended to read:

3 ~~109. (a) The decisions of any of the boards comprising the~~
4 ~~department with respect to setting standards, conducting~~
5 ~~examinations, passing candidates, and revoking licenses, are not~~
6 ~~subject to review by the director, but are final within the limits~~
7 ~~provided by this code which are applicable to the particular board,~~
8 ~~except as provided in this section.~~

9 ~~(b)~~

10 109. (a) The director may initiate an investigation of any
11 allegations of misconduct in the preparation, administration, or
12 scoring of an examination which is administered by a board, or in
13 the review of qualifications which are a part of the licensing process
14 of any board. A request for investigation shall be made by the
15 director to the Division of Investigation through the chief of the
16 division or to any law enforcement agency in the jurisdiction where
17 the alleged misconduct occurred.

18 ~~(c)~~

19 (1) The director may intervene in any matter of any board where
20 an investigation by the Division of Investigation discloses probable
21 cause to believe that the conduct or activity of a board, or its
22 members or ~~employees~~ employees, constitutes a violation of
23 criminal law.

24 ~~The~~

25 (2) The term “intervene,” as used in paragraph ~~(c)~~ (1) of this
26 section may include, but is not limited to, an application for a
27 restraining order or injunctive relief as specified in Section 123.5,
28 or a referral or request for criminal prosecution. For purposes of
29 this section, the director shall be deemed to have standing under
30 Section 123.5 and shall seek representation of the Attorney

1 General, or other appropriate counsel in the event of a conflict in
2 pursuing that action.

3 *(b) (1) For the purposes of this subdivision, the following*
4 *definitions shall apply:*

5 *(A) “Action” includes nonministerial formal actions as voted*
6 *on by a board and nonministerial informal decisions made by staff*
7 *as a result of explicit or implied delegated authority to act on*
8 *behalf of the board.*

9 *(B) Notwithstanding any other law, “board” means a board,*
10 *committee, or commission within the Department of Consumer*
11 *Affairs.*

12 *(C) “Market-sensitive actions” means those actions that create*
13 *barriers to market participation and restrict competition, including,*
14 *but not limited to, examination passage scores, advertising*
15 *restrictions, price regulation, enlarging or restricting the scope*
16 *of practice qualifications for licensure, and a pattern or program*
17 *of disciplinary actions affecting multiple individuals that create*
18 *barriers to market participation.*

19 *(D) “Clearly articulated and affirmatively expressed state*
20 *policy” includes federal statutes and regulations, California state*
21 *statutes and regulations, department policies, and executive orders.*

22 *(2) (A) (i) Within 60 days of an action taking place, the director*
23 *may, upon his or her own initiative, and shall, upon request by the*
24 *board making the decision or the Legislature, review any action*
25 *by a board to determine if it is a market-sensitive action.*

26 *(ii) If the action is found to be a market-sensitive action, the*
27 *director shall, within 90 days of receiving a request for a review*
28 *or initiating a review pursuant to this section, further determine*
29 *whether the market-sensitive action furthers a clearly articulated*
30 *and affirmatively expressed state policy.*

31 *(iii) If the director initiates a review of an action, he or she shall*
32 *notify the relevant board of the review and whether the review*
33 *resulted from a contact made by a specific member of the*
34 *Legislature, a specific organization, or a member of the public.*

35 *(iv) The director’s decision to review an action under this*
36 *section shall serve to cease implementation of the action until the*
37 *review is finalized and the action is found to further a clearly*
38 *articulated and affirmatively expressed state policy.*

39 *(v) Any review by the director under this subdivision shall*
40 *include a full substantive review of the board action based upon*

1 *all the relevant facts in the record provided by the board and any*
2 *additional information identified by the director.*

3 *(B) Upon completion of the review, the director shall take one*
4 *of the following actions:*

5 *(i) Approve the action or decision upon determination that it*
6 *furtheres a clearly articulated and affirmatively expressed state*
7 *policy.*

8 *(ii) Disapprove the action or decision if it does not further a*
9 *clearly articulated and affirmatively expressed state policy. Upon*
10 *disapproval, the director may recommend modifications to the*
11 *board action that the board may vote to accept and resubmit for*
12 *review by the director. If the board rejects the recommended*
13 *modification, the board action shall not take effect.*

14 *(3) This subdivision shall not be construed to apply to any action*
15 *taken by any board prior to January 1, 2017.*

16 *(c) The director shall issue, and post on the department's*
17 *Internet Web site, his or her final written decision on the board*
18 *action with an explanation of the reasons that action or decision*
19 *does or does not further a clearly articulated and affirmatively*
20 *expressed state policy and the rationale behind the director's*
21 *decision.*

22 *(d) The review set forth in subdivision (b) shall not apply to the*
23 *review of any regulation promulgated by a board, singular*
24 *disciplinary action, official positions on legislation or legislative*
25 *proposals, or any other sanction or citation imposed by a board*
26 *upon a single licensee unless it is part of a pattern or program of*
27 *disciplinary actions affecting multiple individuals that create*
28 *barriers to market participation.*

29 *(e) The director shall report to the Chairs of the Senate*
30 *Committee on Business, Professions, and Economic Development*
31 *and the Assembly Committee on Business and Professions annually,*
32 *commencing March 1, 2017, regarding his or her disapprovals*
33 *and recommendations for modifications pursuant to this section.*
34 *This report shall be submitted in compliance with Section 9795 of*
35 *the Government Code.*

36 *(f) This section shall not be construed to affect, impede, or delay*
37 *any disciplinary actions of any board, except those actions that*
38 *are under review as part of a potential pattern or program of*
39 *disciplinary actions affecting multiple individuals that create*
40 *barriers to market participation.*

1 (g) *This section shall not affect, impede, or delay the availability*
2 *of judicial review under any other law, including, but not limited*
3 *to, Section 1085 of the Code of Civil Procedure.*

4 SEC. 2. *Section 116 of the Business and Professions Code is*
5 *amended to read:*

6 116. (a) The director may audit and review, upon his or her
7 own initiative, or upon the request of a consumer or licensee,
8 inquiries and complaints regarding licensees, dismissals of
9 disciplinary cases, the opening, conduct, or closure of
10 investigations, informal conferences, and discipline short of formal
11 accusation by the Medical Board of California, the allied health
12 professional boards, and the California Board of Podiatric
13 Medicine. The director may make recommendations for changes
14 to the disciplinary system to the appropriate board, the Legislature,
15 or both, any board or bureau within the department.

16 (b) The director shall report to the Chairpersons Chairs of the
17 Senate Business and Professions Committee on Business,
18 Professions, and Economic Development and the Assembly Health
19 Committee on Business and Professions annually, commencing
20 March 1, 1995, 2017, regarding his or her findings from any audit,
21 review, or monitoring and evaluation conducted pursuant to this
22 section. *This report shall be submitted in compliance with Section*
23 *9795 of the Government Code.*

24 SEC. 3. *Section 153 of the Business and Professions Code is*
25 *amended to read:*

26 153. The director may investigate the work of the several
27 boards in his or her department and may obtain a copy of all
28 records and full and complete data in all official matters in
29 possession of the boards, their members, officers, or employees;
30 other than examination questions prior to submission to applicants
31 at scheduled examinations. employees.

32 SEC. 4. *Section 307 of the Business and Professions Code is*
33 *amended to read:*

34 307. The director may contract for the services of experts and
35 consultants where necessary to carry out the provisions of this
36 chapter and may provide compensation and reimbursement of
37 expenses for such those experts and consultants in accordance with
38 state law.

39 SEC. 5. *Section 313.1 of the Business and Professions Code*
40 *is amended to read:*

1 313.1. (a) ~~Notwithstanding~~ *For the purposes of this section,*
2 *the following definitions shall apply:*

3 (1) *“Market-sensitive actions” means those actions that create*
4 *barriers to market participation and restrict competition, including,*
5 *but not limited to, examination passage scores, advertising*
6 *restrictions, price regulation, enlarging or restricting the scope*
7 *of practice qualifications for licensure, and a pattern or program*
8 *of disciplinary actions affecting multiple individuals that create*
9 *barriers to market participation.*

10 (2) *“Clearly articulated and affirmatively expressed state*
11 *policy” includes federal statutes and regulations, California state*
12 *statutes and regulations, department policies, and executive orders.*

13 (b) ~~Notwithstanding any other provision of law to the contrary,~~
14 ~~no rule or regulation, except those relating to examinations and~~
15 ~~qualifications for licensure, regulation and no fee change proposed~~
16 ~~or promulgated by any of the boards, commissions, or committees~~
17 ~~within the department, shall take effect pending compliance with~~
18 ~~this section.~~

19 ~~(b)~~
20 (c) ~~The director shall be formally notified of and shall be~~
21 ~~provided a full opportunity to review, in accordance with the~~
22 ~~requirements of Article 5 (commencing with Section 11346) of~~
23 ~~Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government~~
24 ~~Code, and this section, all of the following:~~

25 (1) ~~All notices of proposed action, any modifications and~~
26 ~~supplements thereto, and the text of proposed regulations.~~

27 (2) ~~Any notices of sufficiently related changes to regulations~~
28 ~~previously noticed to the public, and the text of proposed~~
29 ~~regulations showing modifications to the text.~~

30 (3) ~~Final rulemaking records.~~

31 (4) ~~All relevant facts in the rulemaking record, which may~~
32 ~~include data, public comments, or other documentary evidence~~
33 ~~pertaining to the proposed regulation to determine whether it~~
34 ~~furtheres a clearly articulated and affirmatively expressed state~~
35 ~~policy.~~

36 ~~(e)~~
37 (d) ~~The submission of all notices and final rulemaking records~~
38 ~~to the director and the completion of the director’s review,~~
39 ~~director’s approval, as authorized by this section, shall be a~~
40 ~~precondition to the filing of any rule or regulation with the Office~~

1 of Administrative Law. The Office of Administrative Law shall
2 have no jurisdiction to review a rule or regulation subject to this
3 section until after the completion of the director's review and ~~only~~
4 ~~then if the director has not disapproved it.~~ *approval*. The filing of
5 any document with the Office of Administrative Law shall be
6 accompanied by a certification that the board, commission, or
7 committee has complied with the requirements of this section.

8 ~~(d)~~

9 *(e) (1) Following the receipt of any final rulemaking record*
10 *subject to subdivision (a), the director shall have the authority for*
11 *a period of 30 days to disapprove a proposed rule or regulation*
12 *approve or disapprove a proposed rule or regulation within 60*
13 *days. Disapproval shall only be allowed on the ground that it is*
14 *injurious to the public health, safety, or welfare; welfare or is a*
15 *market-sensitive action that does not further a clearly articulated*
16 *and affirmatively expressed state policy.*

17 *(2) If the regulation is a market-sensitive action that does not*
18 *further a clearly articulated and affirmatively expressed state*
19 *policy, it shall be disapproved. If the director disapproves the*
20 *regulation because it is a market-sensitive action that does not*
21 *further a clearly articulated and affirmatively expressed state*
22 *policy, he or she may recommend modifications. The disapproval*
23 *shall be in writing and express the director's rationale for the*
24 *disapproval.*

25 ~~(e)~~

26 *(f) Final rulemaking records shall be filed with the director*
27 *within the one-year notice period specified in Section 11346.4 of*
28 *the Government Code. If necessary for compliance with this*
29 *section, the one-year notice period may be extended, as specified*
30 *by this subdivision.*

31 *(1) In the event that the one-year notice period lapses during*
32 *the director's 30-day review period, or within 60 days following*
33 *the notice of the director's disapproval, it may be extended for a*
34 *maximum of 90 days.*

35 *(2) If the director approves the final rulemaking record or*
36 *declines to take action on it within 30 days, record, the board,*
37 *commission, or committee board shall have five days from the*
38 *receipt of the record from the director within which to file it with*
39 *the Office of Administrative Law.*

(3) (A) If the director disapproves a rule or regulation, it shall have no force or effect unless, within 60 days of the notice of disapproval, (A) the disapproval is overridden by a unanimous vote of the members of the board, commission, or committee, and (B) the board, commission, or committee files the final rulemaking record with the Office of Administrative Law in compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(B) *Any regulation disapproved because it does not further a clearly articulated and affirmatively expressed state policy shall not be subject to this subdivision.*

~~(f) Nothing in this~~

(g) This section shall not be construed to prohibit the director from affirmatively approving a proposed rule, regulation, or fee change at any time within the 30-day period after it has been submitted to him or her, in which event it shall become effective upon compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(h) *This section shall not affect, impede, or delay the availability of judicial review under any other law, including, but not limited to, Section 1085 of the Code of Civil Procedure.*

SEC. 6. *Section 825 of the Government Code is amended to read:*

825. (a) Except as otherwise provided in this section, if an employee or former employee of a public entity requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity and the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action, the public entity shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the public entity has agreed.

If the public entity conducts the defense of an employee or former employee against any claim or action with his or her reasonable good-faith cooperation, the public entity shall pay any judgment based thereon or any compromise or settlement of the

1 claim or action to which the public entity has agreed. However,
2 where the public entity conducted the defense pursuant to an
3 agreement with the employee or former employee reserving the
4 rights of the public entity not to pay the judgment, compromise,
5 or settlement until it is established that the injury arose out of an
6 act or omission occurring within the scope of his or her
7 employment as an employee of the public entity, the public entity
8 is required to pay the judgment, compromise, or settlement only
9 if it is established that the injury arose out of an act or omission
10 occurring in the scope of his or her employment as an employee
11 of the public entity.

12 Nothing in this section authorizes a public entity to pay that part
13 of a claim or judgment that is for punitive or exemplary damages.

14 (b) Notwithstanding subdivision (a) or any other provision of
15 law, a public entity is authorized to pay that part of a judgment
16 that is for punitive or exemplary damages if the governing body
17 of that public entity, acting in its sole discretion except in cases
18 involving an entity of the state government, finds all of the
19 following:

20 (1) The judgment is based on an act or omission of an employee
21 or former employee acting within the course and scope of his or
22 her employment as an employee of the public entity.

23 (2) At the time of the act giving rise to the liability, the employee
24 or former employee acted, or failed to act, in good faith, without
25 actual malice and in the apparent best interests of the public entity.

26 (3) Payment of the claim or judgment would be in the best
27 interests of the public entity.

28 As used in this subdivision with respect to an entity of state
29 government, “a decision of the governing body” means the
30 approval of the Legislature for payment of that part of a judgment
31 that is for punitive damages or exemplary damages, upon
32 recommendation of the appointing power of the employee or
33 former employee, based upon the finding by the Legislature and
34 the appointing authority of the existence of the three conditions
35 for payment of a punitive or exemplary damages claim. The
36 provisions of subdivision (a) of Section 965.6 shall apply to the
37 payment of any claim pursuant to this subdivision.

38 The discovery of the assets of a public entity and the introduction
39 of evidence of the assets of a public entity shall not be permitted

1 in an action in which it is alleged that a public employee is liable
2 for punitive or exemplary damages.

3 The possibility that a public entity may pay that part of a
4 judgment that is for punitive damages shall not be disclosed in any
5 trial in which it is alleged that a public employee is liable for
6 punitive or exemplary damages, and that disclosure shall be
7 grounds for a mistrial.

8 (c) Except as provided in subdivision (d), if the provisions of
9 this section are in conflict with the provisions of a memorandum
10 of understanding reached pursuant to Chapter 10 (commencing
11 with Section 3500) of Division 4 of Title 1, the memorandum of
12 understanding shall be controlling without further legislative action,
13 except that if those provisions of a memorandum of understanding
14 require the expenditure of funds, the provisions shall not become
15 effective unless approved by the Legislature in the annual Budget
16 Act.

17 (d) The subject of payment of punitive damages pursuant to this
18 section or any other provision of law shall not be a subject of meet
19 and confer under the provisions of Chapter 10 (commencing with
20 Section 3500) of Division 4 of Title 1, or pursuant to any other
21 law or authority.

22 (e) Nothing in this section shall affect the provisions of Section
23 818 prohibiting the award of punitive damages against a public
24 entity. This section shall not be construed as a waiver of a public
25 entity's immunity from liability for punitive damages under Section
26 1981, 1983, or 1985 of Title 42 of the United States Code.

27 (f) (1) Except as provided in paragraph (2), a public entity shall
28 not pay a judgment, compromise, or settlement arising from a
29 claim or action against an elected official, if the claim or action is
30 based on conduct by the elected official by way of tortiously
31 intervening or attempting to intervene in, or by way of tortiously
32 influencing or attempting to influence the outcome of, any judicial
33 action or proceeding for the benefit of a particular party by
34 contacting the trial judge or any commissioner, court-appointed
35 arbitrator, court-appointed mediator, or court-appointed special
36 referee assigned to the matter, or the court clerk, bailiff, or marshal
37 after an action has been filed, unless he or she was counsel of
38 record acting lawfully within the scope of his or her employment
39 on behalf of that party. Notwithstanding Section 825.6, if a public
40 entity conducted the defense of an elected official against such a

1 claim or action and the elected official is found liable by the trier
2 of fact, the court shall order the elected official to pay to the public
3 entity the cost of that defense.

4 (2) If an elected official is held liable for monetary damages in
5 the action, the plaintiff shall first seek recovery of the judgment
6 against the assets of the elected official. If the elected official's
7 assets are insufficient to satisfy the total judgment, as determined
8 by the court, the public entity may pay the deficiency if the public
9 entity is authorized by law to pay that judgment.

10 (3) To the extent the public entity pays any portion of the
11 judgment or is entitled to reimbursement of defense costs pursuant
12 to paragraph (1), the public entity shall pursue all available
13 creditor's remedies against the elected official, including
14 garnishment, until that party has fully reimbursed the public entity.

15 (4) This subdivision shall not apply to any criminal or civil
16 enforcement action brought in the name of the people of the State
17 of California by an elected district attorney, city attorney, or
18 attorney general.

19 (g) *Notwithstanding subdivision (a), a public entity shall pay*
20 *for a judgment or settlement for treble damage antitrust awards*
21 *against a member of a regulatory board for an act or omission*
22 *occurring within the scope of his or her official capacity as a*
23 *member of a regulatory board.*

24 (h) *Treble damages awarded pursuant to the federal Clayton*
25 *Act (Sections 12 to 27, inclusive, of Title 15 of, and Sections 52*
26 *and 53 of Title 29 of, the United States Code) for a violation of*
27 *the federal Sherman Act (Sections 1 to 7, inclusive, of Title 15 of*
28 *the United States Code) are not punitive or exemplary damages*
29 *under the Government Claims Act (Division 3.6 (commencing with*
30 *Section 810) of Title 1 of the Government Code) for purposes of*
31 *this section.*

32 ~~SECTION 1. Section 2909.5 of the Business and Professions~~
33 ~~Code is amended to read:~~

34 ~~2909.5. This chapter shall not be construed as restricting or~~
35 ~~preventing activities of a psychological nature or the use of the~~
36 ~~official title of the position for which persons were employed on~~
37 ~~the part of persons who meet the educational requirements of~~
38 ~~subdivision (b) of Section 2914 and who have one year or more~~
39 ~~of the supervised professional experience referenced in subdivision~~
40 ~~(c) of Section 2914, if they are employed by nonprofit community~~

1 agencies that receive a minimum of 25 percent of their financial
2 support from any federal, state, county, or municipal governmental
3 organizations for the purpose of training and providing services;
4 provided those persons are performing those activities as part of
5 the duties for which they were employed, are performing those
6 activities solely within the confines of or under the jurisdiction of
7 the organization in which they are employed and do not render or
8 offer to render psychological services to the public, as defined in
9 Section 2903. Those persons shall be registered by the agency with
10 the board at the time of employment and shall be identified in the
11 setting as a “registered psychologist.” Those persons shall be
12 exempt from this chapter for a maximum period of 30 months from
13 the date of registration.

14 SEC. 2. Section 2913 of the Business and Professions Code is
15 amended to read:

16 2913. A person other than a licensed psychologist may perform
17 psychological functions in preparation for licensure as a
18 psychologist only if all of the following conditions are met:

19 (a) The person shall register himself or herself with the board
20 as a “psychological assistant.” This registration shall be renewed
21 annually in accordance with regulations adopted by the board.

22 (b) The person (1) has completed a master’s degree in
23 psychology or education with the field of specialization in
24 psychology or counseling psychology, or (2) has been admitted to
25 candidacy for a doctoral degree in psychology or education with
26 the field of specialization in psychology or counseling psychology;
27 after having satisfactorily completed three or more years of
28 postgraduate education in psychology and having passed
29 preliminary doctoral examinations, or (3) has completed a doctoral
30 degree that qualifies for licensure under Section 2914.

31 (c) (1) The psychological assistant is at all times under the
32 immediate supervision, as defined in regulations adopted by the
33 board, of a licensed psychologist, or a licensed physician and
34 surgeon who is certified in psychiatry by the American Board of
35 Psychiatry and Neurology, who shall be responsible for insuring
36 that the extent, kind, and quality of the psychological services that
37 the psychological assistant performs are consistent with his or her
38 training and experience and be responsible for the psychological
39 assistant’s compliance with this chapter and regulations.

1 ~~(2) A licensed psychologist or board-certified psychiatrist shall~~
2 ~~not supervise more than three psychological assistants at any given~~
3 ~~time. No psychological assistant may provide psychological~~
4 ~~services to the public except as a supervisee pursuant to this~~
5 ~~section.~~

6 ~~(d) The psychological assistant shall comply with regulations~~
7 ~~that the board may, from time to time, duly adopt relating to the~~
8 ~~fulfillment of requirements in continuing education.~~

9 ~~SEC. 3. Section 2914 of the Business and Professions Code is~~
10 ~~amended to read:~~

11 ~~2914. Each applicant for licensure shall comply with all of the~~
12 ~~following requirements:~~

13 ~~(a) Is not subject to denial of licensure under Division 1.5~~
14 ~~(commencing with Section 475).~~

15 ~~(b) Possess an earned doctorate degree (1) in psychology, (2)~~
16 ~~in educational psychology, or (3) in education with the field of~~
17 ~~specialization in counseling psychology or educational psychology.~~
18 ~~Except as provided in subdivision (h), this degree or training shall~~
19 ~~be obtained from an accredited university, college, or professional~~
20 ~~school. The board shall make the final determination as to whether~~
21 ~~a degree meets the requirements of this section.~~

22 ~~(c) (1) On or after January 1, 2020, possess an earned doctorate~~
23 ~~degree in psychology, in educational psychology, or in education~~
24 ~~with the field of specialization in counseling psychology or~~
25 ~~educational psychology from a college or institution of higher~~
26 ~~education that is accredited by a regional accrediting agency~~
27 ~~recognized by the United States Department of Education. Until~~
28 ~~January 1, 2020, the board may accept an applicant who possesses~~
29 ~~a doctorate degree in psychology, educational psychology, or in~~
30 ~~education with the field of specialization in counseling psychology~~
31 ~~or educational psychology from an institution that is not accredited~~
32 ~~by an accrediting agency recognized by the United States~~
33 ~~Department of Education, but is approved to operate in this state~~
34 ~~by the Bureau for Private Postsecondary Education.~~

35 ~~(2) No educational institution shall be denied recognition as an~~
36 ~~accredited academic institution solely because its program is not~~
37 ~~accredited by any professional organization of psychologists, and~~
38 ~~nothing in this chapter or in the administration of this chapter shall~~
39 ~~require the registration with the board by educational institutions~~

1 of their departments of psychology or their doctoral programs in
2 psychology.

3 ~~(3) An applicant for licensure trained in an educational~~
4 ~~institution outside the United States or Canada shall demonstrate~~
5 ~~to the satisfaction of the board that he or she possesses a doctorate~~
6 ~~degree in psychology that is equivalent to a degree earned from a~~
7 ~~regionally accredited university in the United States or Canada.~~
8 ~~These applicants shall provide the board with a comprehensive~~
9 ~~evaluation of the degree performed by a foreign credential~~
10 ~~evaluation service that is a member of the National Association~~
11 ~~of Credential Evaluation Services (NACES), and any other~~
12 ~~documentation the board deems necessary.~~

13 ~~(d) (1) Have engaged for at least two years in supervised~~
14 ~~professional experience under the direction of a licensed~~
15 ~~psychologist, the specific requirements of which shall be defined~~
16 ~~by the board in its regulations, or under suitable alternative~~
17 ~~supervision as determined by the board in regulations duly adopted~~
18 ~~under this chapter, at least one year of which shall be after being~~
19 ~~awarded the doctorate in psychology. The supervisor shall submit~~
20 ~~verification of the experience required by this subdivision to the~~
21 ~~trainee in a manner prescribed by the board. If the supervising~~
22 ~~licensed psychologist fails to provide verification to the trainee in~~
23 ~~a timely manner, the board may establish alternative procedures~~
24 ~~for obtaining the necessary documentation. Absent good cause,~~
25 ~~the failure of a supervising licensed psychologist to provide the~~
26 ~~verification to the board upon request shall constitute~~
27 ~~unprofessional conduct.~~

28 ~~(2) The board shall establish qualifications by regulation for~~
29 ~~supervising psychologists.~~

30 ~~(e) Take and pass the examination required by Section 2941~~
31 ~~unless otherwise exempted by the board under this chapter.~~

32 ~~(f) Show by evidence satisfactory to the board that he or she~~
33 ~~has completed training in the detection and treatment of alcohol~~
34 ~~and other chemical substance dependency. This requirement applies~~
35 ~~only to applicants who matriculate on or after September 1, 1985.~~

36 ~~(g) (1) Show by evidence satisfactory to the board that he or~~
37 ~~she has completed coursework in spousal or partner abuse~~
38 ~~assessment, detection, and intervention. This requirement applies~~
39 ~~to applicants who began graduate training during the period~~

1 ~~commencing on January 1, 1995, and ending on December 31,~~
2 ~~2003.~~

3 ~~(2) An applicant who began graduate training on or after January~~
4 ~~1, 2004, shall show by evidence satisfactory to the board that he~~
5 ~~or she has completed a minimum of 15 contact hours of coursework~~
6 ~~in spousal or partner abuse assessment, detection, and intervention~~
7 ~~strategies, including knowledge of community resources, cultural~~
8 ~~factors, and same gender abuse dynamics. An applicant may request~~
9 ~~an exemption from this requirement if he or she intends to practice~~
10 ~~in an area that does not include the direct provision of mental health~~
11 ~~services.~~

12 ~~(3) Coursework required under this subdivision may be~~
13 ~~satisfactory if taken either in fulfillment of other educational~~
14 ~~requirements for licensure or in a separate course. This requirement~~
15 ~~for coursework shall be satisfied by, and the board shall accept in~~
16 ~~satisfaction of the requirement, a certification from the chief~~
17 ~~academic officer of the educational institution from which the~~
18 ~~applicant graduated that the required coursework is included within~~
19 ~~the institution's required curriculum for graduation.~~

20 ~~(h) Until January 1, 2020, an applicant holding a doctoral degree~~
21 ~~in psychology from an approved institution is deemed to meet the~~
22 ~~requirements of this section if both of the following are true:~~

23 ~~(1) The approved institution offered a doctoral degree in~~
24 ~~psychology designed to prepare students for a license to practice~~
25 ~~psychology and was approved by the former Bureau for Private~~
26 ~~Postsecondary and Vocational Education on or before July 1, 1999.~~

27 ~~(2) The approved institution has not, since July 1, 1999, had a~~
28 ~~new location, as described in Section 94823.5 of the Education~~
29 ~~Code.~~

30 ~~SEC. 4. Section 2914.1 of the Business and Professions Code~~
31 ~~is amended to read:~~

32 ~~2914.1. The board shall encourage every licensed psychologist~~
33 ~~to take continuing professional development in geriatric~~
34 ~~pharmacology.~~

35 ~~SEC. 5. Section 2914.2 of the Business and Professions Code~~
36 ~~is amended to read:~~

37 ~~2914.2. The board shall encourage licensed psychologists to~~
38 ~~take continuing professional development in psychopharmacology~~
39 ~~and biological basis of behavior.~~

1 ~~SEC. 6. Section 2915 of the Business and Professions Code is~~
2 ~~amended to read:~~

3 ~~2915. (a) Except as provided in this section, the board shall~~
4 ~~issue a renewal license only to an applicant who has completed~~
5 ~~36 hours of approved continuing professional development in the~~
6 ~~preceding two years.~~

7 ~~(b) Each person who applies to renew or reinstate his or her~~
8 ~~license issued pursuant to this chapter shall certify under penalty~~
9 ~~of perjury that he or she is in compliance with this section and~~
10 ~~shall retain proof of this compliance for submission to the board~~
11 ~~upon request. False statements submitted pursuant to this section~~
12 ~~shall be a violation of Section 2970.~~

13 ~~(c) Continuing professional development means certain~~
14 ~~continuing education learning activities approved in four different~~
15 ~~categories:~~

16 ~~(1) Professional.~~

17 ~~(2) Academic.~~

18 ~~(3) Sponsored continuing education coursework.~~

19 ~~(4) Board certification from the American Board of Professional~~
20 ~~Psychology.~~

21 ~~The board may develop regulations further defining acceptable~~
22 ~~continuing professional development activities.~~

23 ~~(d) (1) The board shall require a licensed psychologist who~~
24 ~~began graduate study prior to January 1, 2004, to take a continuing~~
25 ~~education course during his or her first renewal period after the~~
26 ~~operative date of this section in spousal or partner abuse~~
27 ~~assessment, detection, and intervention strategies, including~~
28 ~~community resources, cultural factors, and same gender abuse~~
29 ~~dynamics. Equivalent courses in spousal or partner abuse~~
30 ~~assessment, detection, and intervention strategies taken prior to~~
31 ~~the operative date of this section or proof of equivalent teaching~~
32 ~~or practice experience may be submitted to the board and at its~~
33 ~~discretion, may be accepted in satisfaction of this requirement.~~

34 ~~(2) Continuing education courses taken pursuant to this~~
35 ~~subdivision shall be applied to the 36 hours of approved continuing~~
36 ~~professional development required under subdivision (a).~~

37 ~~(e) Continuing education courses approved to meet the~~
38 ~~requirements of this section shall be approved by organizations~~
39 ~~approved by the board. An organization previously approved by~~

1 the board to provide or approve continuing education is deemed
2 approved under this section:

3 (f) The board may accept sponsored continuing education
4 courses that have been approved by a private, nonprofit
5 organization that has demonstrated to the board in writing that it
6 has, at a minimum, a 10-year history of providing educational
7 programming for psychologists and has documented procedures
8 for maintaining a continuing education approval program. The
9 board shall adopt regulations as necessary for implementing this
10 section.

11 (g) The board may grant an exemption, or an extension of the
12 time for compliance with, from the continuing professional
13 development requirement of this section.

14 (h) The administration of this section may be funded through
15 professional license fees and continuing education provider and
16 course approval fees, or both. The fees related to the administration
17 of this section shall not exceed the costs of administering the
18 corresponding provisions of this section.

19 SEC. 7. Section 2920 of the Business and Professions Code is
20 amended to read:

21 2920. (a) The Board of Psychology shall enforce and
22 administer this chapter. The board shall consist of nine members,
23 four of whom shall be public members.

24 (b) This section shall remain in effect only until January 1, 2021,
25 and as of that date is repealed.

26 (c) Notwithstanding any other law, the repeal of this section
27 renders the board subject to review by the appropriate policy
28 committees of the Legislature.

29 SEC. 8. Section 2933 of the Business and Professions Code is
30 amended to read:

31 2933. (a) Except as provided by Section 159.5, the board shall
32 employ and shall make available to the board within the limits of
33 the funds received by the board all personnel necessary to carry
34 out this chapter. The board may employ, exempt from the State
35 Civil Service Act, an executive officer to the Board of Psychology.
36 The board shall make all expenditures to carry out this chapter.
37 The board may accept contributions to effectuate the purposes of
38 this chapter.

39 (b) This section shall remain in effect only until January 1, 2021,
40 and as of that date is repealed.

1 ~~SEC. 9. Section 2934.1 is added to the Business and Professions~~
2 ~~Code, to read:~~

3 ~~2934.1. (a) The board may post on its Internet Web site the~~
4 ~~following information on the current status of the license for all~~
5 ~~current and former licensees:~~

6 ~~(1) Whether or not the licensee has a record of a disciplinary~~
7 ~~action.~~

8 ~~(2) Any of the following enforcement actions or proceedings~~
9 ~~against the licensee:~~

10 ~~(A) Temporary restraining orders.~~

11 ~~(B) Interim suspension orders.~~

12 ~~(C) Revocations, suspensions, probations, or limitations on~~
13 ~~practice ordered by the board or by a court with jurisdiction in the~~
14 ~~state, including those made part of a probationary order, cease~~
15 ~~practice order, or stipulated agreement.~~

16 ~~(D) Accusations filed by the board, including those accusations~~
17 ~~that are on appeal, excluding ones that have been dismissed or~~
18 ~~withdrawn where the action is no longer pending.~~

19 ~~(E) Citations issued by the board. Unless withdrawn, citations~~
20 ~~shall be posted for five years from the date of issuance.~~

21 ~~(b) The board may also post on its Internet Web site all of the~~
22 ~~following historical information in its possession, custody, or~~
23 ~~control regarding all current and former licensees:~~

24 ~~(1) Institutions that awarded the qualifying educational degree~~
25 ~~and type of degree awarded.~~

26 ~~(2) A link to the licensee's professional Internet Web site.~~

27 ~~(c) The board may also post other information designated by~~
28 ~~the board in regulation.~~

29 ~~SEC. 10. Section 2947 of the Business and Professions Code~~
30 ~~is repealed.~~

31 ~~SEC. 11. Section 2988.5 is added to the Business and~~
32 ~~Professions Code, to read:~~

33 ~~2988.5. (a) The board may issue, upon an application~~
34 ~~prescribed by the board and payment of a fee not to exceed~~
35 ~~seventy-five dollars (\$75), a retired license to a psychologist who~~
36 ~~holds a current license issued by the board, or one capable of being~~
37 ~~renewed, and whose license is not suspended, revoked, or otherwise~~
38 ~~restricted by the board or subject to discipline under this chapter.~~

39 ~~(b) The holder of a retired license issued pursuant to this section~~
40 ~~shall not engage in any activity for which an active license is~~

1 required. A psychologist holding a retired license shall be permitted
2 to use the title “psychologist, retired” or “retired psychologist.”
3 The designation of retired shall not be abbreviated in any way.

4 (c) A retired license shall not be subject to renewal.

5 (d) The holder of a retired license may apply to obtain an active
6 status license as follows:

7 (1) If that retired license was issued less than three years prior
8 to the application date, the applicant shall meet all of the following
9 requirements:

10 (A) Has not committed an act or crime constituting grounds for
11 denial or discipline of a license.

12 (B) Pays the renewal fee required by this chapter.

13 (C) Completes the continuing professional development required
14 for the renewal of a license within two years of the date of
15 application for restoration.

16 (D) Complies with the fingerprint submission requirements
17 established by the board.

18 (2) Where the applicant has held a retired license for three or
19 more years, the applicant shall do all of the following:

20 (A) Submit a complete application for a new license.

21 (B) Take and pass the California Psychology Law and Ethics
22 Examination.

23 (C) Pay all fees required to obtain a new license.

24 (D) Comply with the fingerprint submission requirements
25 established by the board.

26 (E) Be deemed to have met the educational and experience
27 requirements of subdivisions (b) and (c) of Section 2914.

28 (F) Establish that he or she has not been subject to denial or
29 discipline of a license.

30 SEC. 12. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.